

RESPONSE AFTER FINAL REJECTION  
EXPEDITED PROCEDURE  
EXAMINING GROUP 3723

PATENT  
PD-Y01-028

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: CHRIS J. CAVANAUGH  
Serial No.: 09/932,018  
Filed: August 18, 2001  
For: UNIVERSAL HOLDING FIXTURE

: Date: July 25, 2003  
: Group Art Unit: 3723  
:  
: Examiner: Lee Wilson

RESPONSE AFTER FINAL REJECTION

Commissioner of Patents and Trademarks  
Washington, D. C. 20231

Sir:

In response to the Office Action mailed March 28, 2003, please consider the following remarks regarding the allowability of the above-identified patent application.

As for the status of the present application, Claims 1-19 are pending in this application. Reconsideration of this application is respectfully requested. It is respectfully submitted that the present response does not require further searching on the part of the Examiner. It is also respectfully submitted that this response places this application in condition for allowance, or in any event, places it in better condition for consideration on appeal. A Petition and fee for a one month extension of time is enclosed.

Claims 1-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 3,987,579 issued to Palenik, III. The Examiner's position is that "Palenik III discloses a universal fixture having a plurality of dual axis clamps (38) each are rotatably and slidably secured rods (fig. 3), and a base (13). Palenik III discloses enough parts to anticipate all claim pluralities." It is respectfully submitted that the Examiner's rejection is in error.

The pending Claims recite that the dual axis clamps are each rotatable, slidable and lockable to two rods to form an articulated structure. It is respectfully submitted that this structure is clearly distinguishable over the teachings of the Palenik, III patent. There are no lockable elements disclosed or suggested in the Palenik, III patent.

In the "Response to Arguments" section of the Office Action the Examiner stated that "There is no structure being claimed that locks or allows the rods to slide relative to each other." It is respectfully submitted that this statement is illustrative of the Examiner's misunderstanding of the presently claimed invention. Applicant has not claimed structure that locks or allows the rods to slide relative to each other.

Claim 1 recites "a plurality of dual axis clamps that are each rotatable, slidable and lockable to two rods to form an articulated structure, which rods and clamps are rotatable, slidable and lockable relative to each other to position the rods at varying and arbitrary angles relative to each other, and wherein selected rods are suitably positioned and secured to hold the object." It is clear that what is recited in Claim 1 states that the "rods and clamps are rotatable,

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slidable and lockable relative to each other." [Emphasis added] This is not a statement that the rods slide relative to each other as is erroneously argued by the Examiner.

The Examiner stated that "The claims will always have some angle that can be considered an arbitrary angle." This statement is not understood and is also erroneous. Claim 1 recites that the "rods and clamps are rotatable, slidable and lockable relative to each other to position the rods at varying and arbitrary angles relative to each other." As is clearly disclosed in the specification and shown in the drawing figures, the rods and clamps used in the present holding fixture may be rotated and slid relative to each other so that the end of any particular rod is pointed in any desired direction. This is clearly not the case with the structure disclosed in the Palenik, III patent. The rods of the Palenik, III structure are generally disposed at fixed angles relative to other rods, and as such cannot possibly be positioned at varying and arbitrary angles relative to each other, as is presently claimed.

Claim 1 also recites "a plurality of dual axis clamps that are each rotatable, slidable and lockable to two rods." The Palenik, III patent does not disclose or suggest any structure wherein more than one (a plurality) of blocks are each rotatable, slidable and lockable to two rods. Looking at Fig. 5 of the Palenik, III patent, it is clear that this is not the case. In particular, at the right side of Fig. 5, the lowest block has two vertical rods that extend into holes therein, and the two vertical rods are inserted into two adjacent holes in the base. Therefore, it is absolutely impossible for the lowest block to rotate with respect to the rods.

Similarly, at the left side of Fig. 5, the lowest block has three vertical rods that extend into holes therein, and the three vertical rods are inserted into three collinear holes in the base. Therefore, it is absolutely impossible for the lowest block to rotate with respect to the rods. At the bottom of Fig. 5, a single triangular shaped block is connected to the base using a single vertical rod. While this single triangular shaped block may be rotated around the vertical rod, there is no means to lock it to the rod. Furthermore, in this structure, there is only one vertical rod, which is not what is presently claimed. The present invention calls for "a plurality of dual axis clamps that are each rotatable, slidable and lockable to two rods", which is not what is shown at the bottom of Fig. 5 of the Palenik, III patent.

The Examiner also stated that "Applicant argues that the prior art does not disclose universal holding fixture because of its intended use; however, if a device can support a workpiece it would then be useable as a workholder." It is respectfully submitted that Applicant has not argued intended use as the basis of patentability of the present invention, but has recited structure that is different from what is disclosed or suggested by the Palenik, III patent.

As was argued previously, the structures formed in accordance with the teachings of the Palenik, III patent do not clamp anything, nor are the blocks used in the Palenik, III amusement device clamps, or dual axis clamps. It is respectfully submitted that the Palenik, III patent does not disclose or suggest that the structures discussed therein are clamps or that they are used to clamp anything. The terms "clamp" and "dual axis clamp" are not used in the Palenik, III

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patent. It is respectfully submitted that the Examiner's position is clearly not supported by the teachings of the Palenik, III patent.

In view of the above, it is respectfully submitted that the Palenik, III patent does not disclose or suggest the invention recited in Claim 1. Furthermore, it is respectfully submitted that the present invention is not derivable from the teachings of the Palenik, III patent without distorting or extending its teachings and using hindsight reconstruction in light of Applicant's own teachings. Therefore, it is respectfully submitted that the invention recited in Claim 1 is not disclosed or suggested by the Palenik, III patent. Withdrawal of the Examiner's rejection and allowance of Claim 1 are respectfully requested.

Dependent Claims 2-11 are considered patentable based upon their dependence from allowable Claim 1. Withdrawal of the Examiner's rejection and allowance of Claims 2-11 are respectfully requested.

Independent Claims 11 and 17 are considered patentable for the same reasons argued with regard to Claim 1. In addition, with regard to independent Claim 17, it calls for a universal holding fixture comprising a base; and an articulated structure rotatably secured to the base, and wherein the articulated structure comprises plurality of dual axis clamps. It is respectfully submitted that the Palenik, III patent does not disclose or suggest any articulated structure that is rotatably secured to a base that uses a plurality of dual axis clamps.

The detailed structure recited in Claim 17 includes:

"a plurality of first dual axis clamps that are each rotatable, slidable and lockable to a fixed rod and that are each rotatable, slidable and lockable to a second transverse rod;  
 a plurality of second dual axis clamps that are each rotatable, slidable and lockable to a respective second rod and that are each rotatable, slidable and lockable to a third rod that is disposed generally transverse to the respective second rod;  
 a plurality of third dual axis clamps that are each rotatable, slidable and lockable to a respective third rod and that are each rotatable, slidable and lockable to a fourth rod that is disposed generally transverse to the respective third rod; and  
 a plurality of fourth dual axis clamps that are each rotatable, slidable and lockable to a respective fourth rod and that are each rotatable, slidable and lockable to a fifth rod."

The Examiner has made a general allegation that such a structure may be formed by the components disclosed in the Palenik, III patent, but has not found any specific support for this position in the Palenik, III patent. It is respectfully submitted that the Examiner has used hindsight reconstruction to derive the present invention from the teachings of the Palenik, III patent.

In view of the above arguments, and specifically those regarding Claim 1, it is respectfully submitted that Claims 11 and 17 are not disclosed or suggested by the Palenik, III patent. Withdrawal of the Examiner's rejection and allowance of Claims 11 and 17 are respectfully requested.

Dependent Claims 12-16, 18 and 19 are considered patentable based upon their dependence from allowable Claims 11 and 17. Withdrawal of the Examiner's rejection and allowance of Claims 12-16, 18 and 19 are respectfully requested.

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In addition, it is respectfully submitted that the detailed structures recited in the pending dependent Claims are clearly not disclosed or suggested by the Palenik, III patent, and certainly not without the use of hindsight reconstruction by the Examiner. Nowhere in the Palenik, III patent is there any teaching or suggestion regarding the use of multiple (first, second, etc.) dual axis clamps that are each rotatable, slidable and lockable to the recited multiple (first, second, etc.) rods to form the articulated structure. The only teaching of such structures is contained in the present application.

With regard to all pending Claims, it is respectfully submitted that the Examiner's unsupported assertion that the presently claimed structures are taught in the Palenik, III patent is based upon the use of hindsight reconstruction, and is not based upon anything that is specifically disclosed in the Palenik, III patent. The Palenik, III patent discloses an amusement device, and does not teach any structure designed to hold an object. It is respectfully submitted that the Examiner has distorted the clear teachings of the Palenik, III patent in an attempt to argue that the present invention is taught therein. It is respectfully submitted that the Examiner cannot find any specific support for the position that the present invention is disclosed by the Palenik, III patent. The position of the Examiner quoted above in the second paragraph of these remarks only amounts to a general allegation that the Palenik, III patent discloses the present invention, and does not address the specifically claimed aspects recited in the pending Claims. For example, the Examiner has not addressed any detailed embodiments of the present invention such as are recited in the dependent Claims or in independent Claim 17, for example.

The prior art heretofore made of record and not relied upon is considered pertinent to applicant's disclosure to the extent indicated by the Examiner.

In view of the above, it is respectfully submitted that all pending Claims are not anticipated by the Palenik, III patent, and are therefore patentable, and that the present application is in condition for allowance. Reconsideration and allowance of this application are earnestly solicited. It is again respectfully submitted that the present response does not require further searching by the Examiner, and places this application in condition for allowance, or in any event, places it in better condition for consideration on appeal.

Respectfully submitted,



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